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SENATE BILL 938

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO TAXATION; AUTHORIZING MUNICIPALITIES AND COUNTIES TO IMPOSE A GROSS RECEIPTS TAX FOR RECREATIONAL PURPOSES; PRESCRIBING ORDINANCE REQUIREMENTS; REQUIRING AN ELECTION FOR IMPOSITION OF THE MUNICIPAL OR COUNTY RECREATION GROSS RECEIPTS TAX; AUTHORIZING MUNICIPALITIES AND COUNTIES TO ISSUE BONDS PAYABLE FROM RECREATION GROSS RECEIPTS TAX REVENUE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Municipal Local Option Gross Receipts Taxes Act is enacted to read:

"[NEW MATERIAL] MUNICIPAL RECREATION GROSS RECEIPTS TAX-- AUTHORITY TO IMPOSE RATE--ORDINANCE REQUIREMENTS--ELECTION.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax

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1 on any person engaging in business in the municipality for the  
2 privilege of engaging in business. The rate of the tax shall  
3 not exceed one-fourth of one percent of the gross receipts of  
4 the person engaging in business and may be imposed in  
5 one-sixteenth of one percent increments by separate ordinances.

6 B. The tax imposed pursuant to Subsection A of this  
7 section may be referred to as the "municipal recreation gross  
8 receipts tax".

9 C. The governing body of a municipality, at the  
10 time of enacting an ordinance imposing the rate of the tax  
11 authorized in Subsection A of this section, shall dedicate the  
12 revenue for:

13 (1) acquiring, constructing, purchasing,  
14 equipping, furnishing, making additions to, renovating,  
15 rehabilitating, beautifying or otherwise improving public parks  
16 or public recreational buildings or facilities;

17 (2) operating, maintaining or staffing public  
18 parks or public recreational buildings or facilities;

19 (3) marketing, advertising, planning,  
20 coordinating, operating or professional services contracts  
21 related to amateur recreational or sporting programs or events  
22 held at public parks or public recreational buildings or  
23 facilities; or

24 (4) payment of gross receipts tax revenue  
25 bonds issued pursuant to Chapter 3, Article 31 NMSA 1978 for

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1 public parks or recreational purposes.

2 D. An ordinance imposing any increment of the  
3 municipal recreation gross receipts tax shall not go into  
4 effect until after an election is held and a majority of the  
5 voters in the municipality voting in the election votes in  
6 favor of imposing the tax. The governing body shall adopt a  
7 resolution calling for an election within ninety days of the  
8 date the ordinance is adopted on the question of imposing the  
9 tax. The question may be submitted to the voters as a separate  
10 question at a general election or at a special election called  
11 for that purpose by the governing body. A special election  
12 shall be called, conducted and canvassed in substantially the  
13 same manner as provided by law for general elections. In any  
14 election held, the ballot shall clearly state the purpose to  
15 which the revenue will be dedicated pursuant to this section.  
16 If a majority of the voters voting on the question approves the  
17 ordinance imposing the municipal recreation gross receipts tax,  
18 the ordinance shall become effective in accordance with the  
19 provisions of the Municipal Local Option Gross Receipts Taxes  
20 Act. If the question of imposing the municipal recreation  
21 gross receipts tax fails, the governing body shall not again  
22 propose the imposition of the tax for a period of one year from  
23 the date of the election.

24 E. A municipality that has imposed a municipal  
25 recreation gross receipts tax may issue revenue bonds pursuant

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1 to Chapter 3, Article 31 NMSA 1978 to pay for some or all of  
2 the cost of acquiring, constructing, purchasing, equipping,  
3 furnishing, making additions to, renovating, rehabilitating,  
4 beautifying or otherwise improving a public park or a public  
5 recreational building or facility. The bonds shall be secured  
6 by municipal recreation gross receipts tax revenue.

7 F. A municipality that has issued bonds pursuant to  
8 Subsection E of this section shall establish a "municipal  
9 recreation bonding fund" for deposit of municipal recreation  
10 gross receipts tax revenue and any revenue from an amateur  
11 recreational or sporting program or event held at a public park  
12 or a public recreational building or facility acquired,  
13 constructed or improved with revenue from the municipal  
14 recreation gross receipts tax. Money in the fund may be used  
15 to pay:

16 (1) payments of principal, interest or prior  
17 redemption premiums due in connection with, and any other  
18 charges pertaining to, the bonds, including any sinking fund or  
19 reserve fund required by the bond resolution;

20 (2) costs of operating, maintaining or  
21 staffing public parks or public recreational buildings or  
22 facilities, provided that no such costs shall be paid if there  
23 are current payments due pursuant to Paragraph (1) of this  
24 subsection;

25 (3) costs of marketing, advertising,

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1 planning, coordinating, operating or professional services  
2 contracts related to amateur recreational or sporting programs  
3 or events held at public parks or public recreational buildings  
4 or facilities, provided that no such costs shall be paid if  
5 there are current payments due pursuant to Paragraph (1) of  
6 this subsection; or

7 (4) costs of acquiring, constructing,  
8 purchasing, equipping, furnishing, making additions to,  
9 renovating, rehabilitating, beautifying or otherwise improving  
10 public parks or public recreational buildings or facilities,  
11 provided that no such costs shall be paid if there are current  
12 payments due pursuant to Paragraph (1) of this subsection.

13 G. At least ten percent of the revenue collected  
14 pursuant to a municipal recreation gross receipts tax shall be  
15 used to repair, renovate or operate existing municipal  
16 recreational facilities or parks, provided that no such costs  
17 shall be paid if there are current payments due pursuant to  
18 Paragraph (1) of Subsection F of this section.

19 H. Bonds issued pursuant to this section shall be  
20 payable solely from the municipal recreation bonding fund and  
21 do not create an obligation or indebtedness of the state or the  
22 municipality within the meaning of any constitutional  
23 provision. A breach of any contractual obligation incurred  
24 pursuant to this section shall not impose a pecuniary liability  
25 or charge upon the general credit or taxing power of the state

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1 or the municipality, and the bonds are not general obligations  
2 for which the state's or the municipality's full faith and  
3 credit is pledged.

4 I. The state pledges that any law authorizing the  
5 imposition of municipal recreation gross receipts tax shall not  
6 be amended or repealed or otherwise modified so as to impair  
7 the bonds to which the municipal recreation bonding fund is  
8 dedicated as provided in this section.

9 J. Nothing in this section shall prohibit  
10 public-private partnership projects in connection with public  
11 parks, public recreational buildings or facilities, sporting  
12 events or programs funded by the municipal recreation gross  
13 receipts tax."

14 Section 2. A new section of the County Local Option Gross  
15 Receipts Taxes Act is enacted to read:

16 "[NEW MATERIAL] COUNTY RECREATION GROSS RECEIPTS TAX--  
17 AUTHORITY TO IMPOSE RATE--USE OF FUNDS--ELECTION.--

18 A. The majority of the members of the governing  
19 body of a county may enact an ordinance imposing an excise tax  
20 at a rate not to exceed one-fourth of one percent of the gross  
21 receipts of any person engaging in business in the county area  
22 for the privilege of engaging in business. The rate of the tax  
23 shall not exceed one-fourth of one percent of the gross  
24 receipts of the person engaging in business and may be imposed  
25 in one-sixteenth of one percent increments by separate

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1 ordinances.

2 B. The tax imposed pursuant to Subsection A of this  
3 section may be referred to as the "county recreation gross  
4 receipts tax".

5 C. The governing body, at the time of enacting an  
6 ordinance imposing a rate of tax authorized in Subsection A of  
7 this section, shall dedicate the revenue for:

8 (1) acquiring, constructing, purchasing,  
9 equipping, furnishing, making additions to, renovating,  
10 rehabilitating, beautifying or otherwise improving public parks  
11 or public recreational buildings or facilities;

12 (2) operating, maintaining or staffing public  
13 parks or public recreational buildings or facilities;

14 (3) marketing, advertising, planning,  
15 coordinating, operating or professional services contracts  
16 related to amateur recreational or sporting programs or events  
17 held at public parks or public recreational buildings or  
18 facilities; or

19 (4) payment of gross receipts tax revenue  
20 bonds issued pursuant to Chapter 4, Article 62 NMSA 1978.

21 D. An ordinance imposing the county recreation  
22 gross receipts tax shall not go into effect until after an  
23 election is held and a majority of the voters in the county  
24 area voting in the election votes in favor of imposing the tax.

25 The governing body shall adopt a resolution calling for an

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1 election within ninety days of the date the ordinance is  
2 adopted on the question of imposing the tax. The question  
3 shall be submitted to the voters of the county area as a  
4 separate question at a general election or at a special  
5 election called for that purpose by the governing body. A  
6 special election shall be called, conducted and canvassed in  
7 substantially the same manner as provided by law for general  
8 elections. If a majority of the voters voting on the question  
9 approves the ordinance imposing the county recreation gross  
10 receipts tax, then the ordinance shall become effective in  
11 accordance with the provisions of the County Local Option Gross  
12 Receipts Taxes Act. If the question of imposing the county  
13 recreation gross receipts tax fails, the governing body shall  
14 not again propose the imposition of the tax for a period of one  
15 year from the date of the election.

16 E. A county that has imposed a county recreation  
17 gross receipts tax may issue revenue bonds pursuant to Chapter  
18 4, Article 62 NMSA 1978 to pay for some or all of the cost of  
19 acquiring, constructing, purchasing, equipping, furnishing,  
20 making additions to, renovating, rehabilitating, beautifying or  
21 otherwise improving a public park or public recreational  
22 building or facility. The bonds shall be secured by county  
23 recreation gross receipts tax revenue.

24 F. A county that has issued bonds pursuant to  
25 Subsection E of this section shall establish a "county

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1 recreation bonding fund" for deposit of county recreation gross  
2 receipts tax revenue, and any revenue from an amateur  
3 recreational or sporting program or event held at a public park  
4 or a public recreational building or facility acquired,  
5 constructed or improved with revenue from the county recreation  
6 gross receipts tax. Money in the fund may be used to pay:

7 (1) payments of principal, interest or prior  
8 redemption premiums due in connection with, and any other  
9 charges pertaining to, the bonds, including any sinking fund or  
10 reserve fund required by the bond resolution;

11 (2) costs of operating, maintaining or  
12 staffing public parks or public recreational buildings or  
13 facilities, provided that no such costs shall be paid if there  
14 are current payments due pursuant to Paragraph (1) of this  
15 subsection;

16 (3) costs of marketing, advertising,  
17 planning, coordinating, operating or professional services  
18 contracts related to amateur recreational or sporting programs  
19 or events held at public parks or a public recreational  
20 buildings or facilities, provided that no such costs shall be  
21 paid if there are current payments due pursuant to Paragraph  
22 (1) of this subsection; or

23 (4) costs of acquiring, constructing,  
24 purchasing, equipping, furnishing, making additions to,  
25 renovating, rehabilitating, beautifying or otherwise improving

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1 public parks or public recreational buildings or facilities,  
2 provided that no such costs shall be paid if there are current  
3 payments due pursuant to Paragraph (1) of this subsection.

4 G. At least ten percent of the revenue collected  
5 pursuant to a county recreation gross receipts tax shall be  
6 used to repair, renovate or operate existing county  
7 recreational facilities or parks, provided that no such costs  
8 shall be paid if there are current payments due pursuant to  
9 Paragraph (1) of Subsection F of this section.

10 H. Bonds issued pursuant to this section shall be  
11 payable solely from the county recreation bonding fund and do  
12 not create an obligation or indebtedness of the state or county  
13 within the meaning of any constitutional provision. A breach  
14 of any contractual obligation incurred pursuant to this section  
15 shall not impose a pecuniary liability or charge upon the  
16 general credit or taxing power of the state or county, and the  
17 bonds are not general obligations for which the state's or  
18 county's full faith and credit is pledged.

19 I. The state pledges that any law authorizing the  
20 imposition of county recreation gross receipts tax shall not be  
21 amended or repealed or otherwise modified so as to impair the  
22 bonds to which the county recreation bonding fund is dedicated  
23 as provided in this section.

24 J. Nothing in this section shall prohibit  
25 public-private partnership projects in connection with public

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1 parks or recreational buildings or facilities, sporting events  
2 or programs funded by the county recreation gross receipts  
3 tax."

4 Section 3. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2007.

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